



Dkt. No. 75723-ZB/JPW/GJG/CS

JPW  
JP

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants: David Baltimore, et al.

Serial No.: 10/037,415

Examiner: C. Hibbert

Filed : January 4, 2002

Group Art Unit: 1636

Title : Nuclear Factors Associated With Transcriptional Regulation

30 Rockefeller Plaza  
20th Floor  
New York, New York 10112  
January 21, 2010

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

In accordance with their duty of disclosure under 37 C.F.R. §1.56, Applicants direct the Examiner's attention to the following disclosures, which are also listed on the attached substitute Form PTO-1449 (**Exhibit A**).

Applicants note that items listed herein are part of a concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly & Co.* involving U.S. Patent No. 6,410,516, which issued from a parent of the subject application.

Applicants further note that items 1-17 were previously submitted to the U.S. Patent and Trademark Office on January 21, 2010 in connection the copending merged reexamination proceeding of U.S. Patent No. 6,410,516, for which the subject application relies on for an earlier effective priority date under 35 U.S.C. §120. In accordance with 37 C.F.R. §1.98(d), copies of items 1-17 are not enclosed herewith but are readily

01/26/2010 JADD01 00000036 10037415  
01 FC:1806 180.00 OP

Applicants : David Baltimore et al.  
Serial No. : 10/037,415  
Filed : January 4, 2002  
Page 2 of Supplemental Information Disclosure Statement

available to the Examiner from the file history of U.S. Patent No. 6,410,516 and its merged proceeding of *Ex Parte Reexamination Control Nos. 90/007,503 and 90/007,828.*

The Examiner is respectfully requested to make the items of record in the subject application by initialing and dating the attached substitute Form PTO-1449, and returning a copy of the initialed and dated form to Applicants' undersigned attorneys.

1. Principal Brief For Defendant-Appellant Eli Lilly And Company On Rehearing En Banc, filed November 9, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
2. Brief For Abbott Laboratories As Amicus Curiae In Support Of Defendant-Appellant, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
3. Brief Of Amicus Curiae The American Intellectual Property Law Association In Support Of Appellant On Rehearing En Banc, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
4. Brief Of Amicus Curiae Amgen Inc. In Support Of Affirmance Of Judgment, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;

5. Brief Of Amicus Curiae Professor Christopher A. Cotropia In Support Of Eli Lilly's Answers To The En Banc Questions, filed November 18, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
6. Brief Of Amicus Curiae Federal Circuit Bar Association In Support Of Appellant, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
7. Brief Of Amicus Curiae GlaxoSmithKline In Support Of Eli Lilly & Company, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
8. Brief Of Hynix Semiconductor Inc. And Samsung Electronics Co., Ltd. As Amici Curiae In Support Of Defendant-Appellant-Respondent And Reversal, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
9. Brief Of Amicus Curiae Intellectual Property Owners Association On *En Banc* Rehearing In Support Of Eli Lilly And Company, filed November 11, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;

10. Brief Of Amicus Curiae Oskar Liivak In Support Of Defendant-Appellant, filed November 18, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
11. Brief Of Amicus Curiae Medtronic Inc. In Support Of Eli Lilly & Company, filed November 16, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
12. Brief Of Amicus Curiae Microsoft Corporation In Support Of Defendant-Appellant Eli Lilly & Company On Rehearing En Banc, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
13. Brief Of Amicus Curiae Monsanto Company In Support Of Eli Lilly & Company And Affirmance, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
14. Brief Of Amicus Curiae Public Patent Foundation In Support Of Defendant-Appellant Eli Lilly & Co., filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;

Applicants : David Baltimore et al.  
Serial No. : 10/037,415  
Filed : January 4, 2002  
Page 5 of Supplemental Information Disclosure Statement

15. Brief Of *Amicus Curiae* Realnetworks, Inc. In Support Of Eli Lilly & Company, filed November 18, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248;
16. Brief For The United States As *Amicus Curiae* On Rehearing En Banc In Support Of Respondent, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248; and
17. Brief Of Washington Legal Foundation As *Amicus Curiae* In Support Of Defendant-Appellant Supporting Reversal, filed November 19, 2009 in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248.

Item 1 is a copy of a Principal Brief filed by Eli Lilly and Company in connection with the en banc rehearing in the concurrent litigation captioned *ARIAD Pharmaceuticals, Inc., et al. v. Eli Lilly and Company*, U.S. Court of Appeals for the Federal Circuit, Docket No. 2008-1248. Items 2-17 are copies of amici briefs filed in the in connection with the same en banc rehearing.

This Supplemental Information Disclosure Statement is being submitted under 37 C.F.R. §1.97(c), before the mailing of a Final Office Action. Accordingly, Applicants enclose a check in the amount of ONE HUNDRED AND EIGHTY DOLLARS (\$180.00) for filing this Supplemental Information Disclosure

Applicants : David Baltimore et al.  
Serial No. : 10/037,415  
Filed : January 4, 2002  
Page 6 of Supplemental Information Disclosure Statement

Statement.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee, other than the enclosed \$180.00 fee for filing a Supplemental Information Disclosure Statement, is deemed necessary in connection with this filing. However, if any additional fee is required, authorization is hereby given to charge the additional amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

Gary J. Gershik

John P. White  
Registration No. 28,678  
Gary J. Gershik  
Registration No. 39,992  
Attorneys for Applicants  
Cooper & Dunham LLP  
30 Rockefeller Plaza  
20th Floor  
New York, New York 10112  
(212) 278-0400

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:	
Mail Stop Amendment Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	
<u>Gary J. Gershik 1/21/10</u>	
John P. White	Date
Reg. No. 28,678	
Gary J. Gershik	
Reg. No. 39,992	

## **EXHIBIT A**

### **of Supplemental Information Disclosure Statement**

Applicants: David Baltimore, et al.  
Serial No.: 10/037,415  
Filed: January 4, 2002  
Group Art Unit: 1636  
Examiner: C. Hibbert